

AMENDED IN SENATE MAY 12, 1998

AMENDED IN SENATE FEBRUARY 19, 1998

AMENDED IN ASSEMBLY JANUARY 28, 1998

AMENDED IN ASSEMBLY JANUARY 15, 1998

AMENDED IN ASSEMBLY JANUARY 5, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1613

Introduced by Assembly Members Scott and Strom-Martin
(Principal coauthor: Assembly Member Lempert)

**(Coauthors: Assembly Members Aguiar, Alquist, Cardenas,
Davis, Figueroa, Firestone, Hertzberg, Keeley, Machado,
Mazzoni, Morrissey, Prenter, Sweeney, Villaraigosa,
Wildman, and Wright)**

(Coauthors: Senators Costa, Karnette, Schiff, and Solis)

June 3, 1997

An act to ~~amend Section 17140 of, and to add Sections 17053.51 and 17204 to, the Revenue and Taxation Code,~~
amend Sections 17072 and 17140 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as amended, Scott. Personal income taxes: education.

The Personal Income Tax Law incorporates by reference various provisions of the federal Internal Revenue Code as enacted as of a specified date.

This bill would enact the Higher Education Affordability Act which would make certain recent changes in federal income tax laws applicable, with specified exceptions and modifications, for purposes of the Personal Income Tax Law with respect to the ~~HOPE and lifetime learning credits~~, qualified state tuition programs; and the deduction for interest paid on education loans.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited
2 as the Higher Education Affordability Act.
3 ~~SEC. 2. Section 17053.51 is added to the Revenue and~~
4 ~~Taxation Code, to read:~~
5 ~~17053.51. For each taxable year beginning on or after~~
6 ~~January 1, 1998, there shall be allowed as a credit against~~
7 ~~the "net tax," as defined by Section 17039, an amount~~
8 ~~equal to the amount allowed by Section 25A of the~~
9 ~~Internal Revenue Code, as added by Section 201 of the~~
10 ~~Taxpayer Relief Act of 1997 (P.L. 105-34), modified as~~
11 ~~follows:~~
12 ~~(a) (1) Section 25A(b)(1)(A) of the Internal~~
13 ~~Revenue Code, allowing a 100 percent HOPE Scholarship~~
14 ~~Credit for qualified tuition and related expenses that do~~
15 ~~not exceed one thousand dollars (\$1,000) shall not apply.~~
16 ~~(2) Section 25A(b)(1)(B) of the Internal Revenue~~
17 ~~Code, allowing a 50 percent HOPE Scholarship Credit for~~
18 ~~such expenses so paid as exceeds one thousand dollars~~
19 ~~(\$1,000) but does not exceed the applicable limit, shall be~~
20 ~~modified by substituting "25 percent" for "50 percent."~~
21 ~~(b) Section 25A(c)(1) of the Internal Revenue Code,~~
22 ~~relating to Lifetime Learning Credit, shall be modified by~~
23 ~~substituting "5 percent" for "20 percent."~~
24 ~~(c) Any amount that is described in subdivision (a) for~~
25 ~~which a federal HOPE Scholarship Credit is claimed shall~~
26 ~~be treated as if the amount were allowed for purposes of~~

~~Section 25A(e)(2)(A), relating to coordination with
HOPE Scholarship Credit.~~

*SEC. 2. Section 17072 of the Revenue and Taxation
Code is amended to read:*

17072. (a) Section 62 of the Internal Revenue Code,
relating to adjusted gross income defined, shall apply,
except as otherwise provided.

(b) The amendments to Section 62 of the Internal
Revenue Code, made by Section 13213 of the Revenue
Reconciliation Act of 1993 (P.L. 103-66), relating to
modifications to deduction for moving expenses, shall
apply to taxable years beginning on or after January 1,
1996.

(c) *The deduction allowed by Section 221, as added to
the Internal Revenue Code by Section 202 of the
Taxpayer Relief Act of 1997 (P.L. 105-34), relating to
interest on education loans, shall be allowed in computing
adjusted gross income.*

*SEC. 3. Section 17140 of the Revenue and Taxation
Code is amended to read:*

17140. (a) For purposes of this section, the following
terms have the following meanings as provided in the
Golden State Scholarshare Trust Act (Article 19
(commencing with Section 69980) of Chapter 2 of Part 42
of the Education Code):

(1) “Beneficiary” has the meaning set forth in
subdivision (c) of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision
(d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in
subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set
forth in subdivision (i) of Section 69980 of the Education
Code.

(5) “Scholarshare trust” has the meaning set forth in
subdivision (f) of Section 69980 of the Education Code.

(b) Except as otherwise provided in subdivision (c),
gross income of a beneficiary or a participant does not
include any of the following:

1 (1) Any distribution or earnings under a Scholarshare
2 trust participation agreement, as provided in Article 19
3 (commencing with Section 69980) of Chapter 2 of Part 42
4 of the Education Code.

5 (2) Any contribution to the Scholarshare trust on
6 behalf of a beneficiary shall not be includable as gross
7 income of that beneficiary.

8 (c) (1) Any distribution under a Scholarshare trust
9 participation agreement shall be includable in the gross
10 income of the distributee in the manner as provided
11 under Section 72 of the Internal Revenue Code, as
12 modified by Section 17085, to the extent not excluded
13 from gross income under this part. For purposes of
14 applying Section 72 of the Internal Revenue Code, the
15 following apply:

16 (A) All Scholarshare trust accounts of which an
17 individual is a beneficiary shall be treated as one account,
18 except as otherwise provided.

19 (B) All distributions during a taxable year shall be
20 treated as one distribution.

21 (C) The value of the participation agreement, income
22 on the participation agreement, and investment in the
23 participation agreement shall be computed as of the close
24 of the calendar year in which the taxable year begins.

25 (2) A contribution by a for-profit or nonprofit entity
26 for the benefit of an owner or employee of that entity or
27 a beneficiary whom the owner or employee has the
28 power to designate, including the owner or employee's
29 minor children, shall be included in the gross income of
30 that owner or employee in the year the contribution is
31 made.

32 (3) For purposes of this subdivision, "distribution"
33 includes any benefit furnished to a beneficiary under a
34 participation agreement, as provided in Article 19
35 (commencing with Section 69980) of Chapter 2 of Part 42
36 of the Education Code.

37 (4) (A) Paragraph (1) shall not apply to that portion
38 of any distribution that, within 60 days of distribution, is
39 transferred to the credit of another beneficiary under the
40 Scholarshare trust who is a "member of the family," as

1 that term is used in Section 2032A(e)(2) of the Internal
2 Revenue Code, of the former beneficiary of that
3 Scholarshare trust.

4 (B) Any change in the beneficiary of an interest in the
5 Scholarshare trust shall not be treated as a distribution for
6 purposes of paragraph (1) if the new beneficiary is a
7 “member of the family,” as that term is used in Section
8 2032A(e)(2) of the Internal Revenue Code, of the former
9 beneficiary of that Scholarshare trust.

10 (d) For purposes of determining adjusted gross
11 income, Section 62(a)(9) of the Internal Revenue Code
12 shall not apply to any amount forfeited upon distribution
13 of an account created pursuant to a participation
14 agreement.

15 (e) The amendments made to the Internal Revenue
16 Code by Section 211 of the Taxpayer Relief Act of 1997
17 (P.L. 105-34) shall apply to taxable years beginning on or
18 after January 1, 1998.

19 ~~SEC. 4. Section 17204 is added to the Revenue and~~
20 ~~Taxation Code, to read:~~

21 ~~17204. Section 221 as added to the Internal Revenue~~
22 ~~Code by Section 202 of the Taxpayer Relief Act of 1997~~
23 ~~(P.L. 105-34), relating to interest on education loans, shall~~
24 ~~apply for taxable years beginning on or after January 1,~~
25 ~~1998.~~

26 ~~SEC. 5.—~~

27 *SEC. 4.* This act provides for a tax levy within the
28 meaning of Article IV of the Constitution and shall go into
29 immediate effect.